



June 17, 1998

U. S. Department of Transportation
Federal Highway Administration
Attn: Docket Clerk
Room PL-401
400 7th Street, SW
Washington, DC 20590-0001

RE: Notice of Proposed RuleMakin - Request for Comments
Docket No. FHWA-98-3706 - & b

DEPARTMENT OF TRANSPORTATION
98 JUN 19 PM 10:32
DOCKET SECTION

Gentlemen:

This is in response to the above docket on Hours of Service of Drivers; Supporting Documents.

First, let me advise that I've been in the trucking industry over forty-one (41) years, of which 28 were in the LTL sector with a unionized major motor carrier while the most recent 13 years have been with a major nonunion truckload refrigerated carrier with over 2,000 power units. My experience in safety begin in 1971 with my appointment as Director of Safety & Compliance for a major motor carrier and has continued to this date in positions of greater responsibilities in safety and related functional areas. The management of all the motor carriers I've worked for over the years have all been very supportive of safety and all carriers received "Satisfactory" safety ratings.

I've reviewed your proposed rulemaking on supporting documents and am very concerned about the direction FHWA is taking in trying to use it's "limited resources" to continue helping to improve the industry's safety posture. I am concerned because whoever developed this proposal needs to have a better understanding of the issues involved in the development and retention of "supporting documents". As I read your proposal, it seems to be that you are complicating an exercise which must be simplified as opposed to more difficult. FHWA has already provided the industry regulatory guidance on what constitutes "supporting documents" in the Federal Register in April, 1997. Why is it necessary to complicate the matter by imposing requirements upon this industry by complicating and formalizing what appears to be a simple matter. I believe FHWA should devote their times to resolving the "Hours of Service" issues which they have been studying for the last few years. Bringing that one area to the 21st Century, will help the industry in it's efforts to continuing insuring compliance with the Hours of Service Regulations. I ask that FHWA reassess it's priorities and devote it's efforts to those areas which will have the greatest impact in improving safety and reducing accidents (crashes).

Let me advise that we do check "supporting documents" with the driver's record of duty status to insure such items such as time, date, and location agree. Other motor carriers with which I am familiar do the same. They have a program of checking supporting documents against RODS to insure the driver is logging properly. Such documents

include fuel receipts, toll tickets, bills of lading, delivery receipts, State/Federal inspection reports, citations, border/port of entry crossings, pallet receipts, lumber receipts, repair receipts, etc. In many cases, these documents have specific retention periods with which we comply. Additionally, some of these documents may be necessary for reimbursement of expenses, etc.

Let me respond to your questions to help FHWA re-think their proposal.

Question (1): What types of self-monitoring systems should be considered in addition to the type proposed in this document?

Response: My strong recommendation is to leave the system as it presently stands and if FHWA must have a reference to supporting documents in part 395.10, take the regulatory guidance interpretation and place it there.

Question (2): Whether and what conditions should be imposed upon motor carriers (such as accident or out of service prevention performance history) before the FHWA would authorize a different self-monitoring system as an alternative to compliance with this proposed rule?

Response: I do not endorse a change in the present system. Keep the present system. The FHWA Safety Inspector should use documents being handled by the respective carrier in it's normal course of business. If the available documents are insufficient, the Safety Inspector should make recommendations to the carrier for improvement.

Question (3): Whether motor carriers seeking additional authorization should have some established safety record with the FHWA and other State or local enforcement agencies?

Response: See #1 & 2 above.

Question (4): What must happen before the FHWA should disallow the use of a self-monitoring system or an alternative system?

Response: The motor carriers I know use a system of spot-checking driver's logs against available supporting documents. If a carrier is not doing this, the OMC Safety Inspector should make recommendations for improvement.

Question (5): Are there any other advanced technology systems currently in use or under development that the motor carrier industry may use to validate HOS or support the RODS?

Respond: Yes. The industry has started using satellite technology to better serve the customer, manage their drivers and obtain performance data. However, FHWA well knows the industry's position with regards to this technology and it's intended use.

Question (6): Should waivers be considered on a case-by-case basis for other systems that do not quite meet these requirements, but may have other compensating features that produce equivalent safety results.

Reponse: See my response to question #5.

Question (7): Under what circumstances should the use of such alternatives systems also operate as a substitute for the requirement to prepare and maintain RODS? Demonstration of the effective use of a system in whole or in part, for verification should obviate any necessity to further examine the information produced by the system by enforcement personnel.

Response: See response to #5.

Question (8): What impact would a six-month or longer record retention requirement have on the Federal Government, State Governments and motor carriers?

Response: At a time when we are encouraging both regulatory agencies and motor carriers to reduce their administrative workload, why would FHWA even advocate increasing the retention periods for RODS or supporting documents? FHWA Inspectors are certainly capable of assessing a carrier's compliance posture with the six month supply of RODS and supporting documents. If any change to the retention requirements must occur, let's reduce them to 4 months. FHWA Inspectors should be able to assess a carrier's safety posture with 4 months supply of logs. Obviously, longer retention periods would result in additional unwarranted costs.

Question (9): Would we enhance enforcement and prosecution efforts with the longer retention requirement (e.g., the ability to adequately enforce the rules, collect evidence for a criminal case, prepare the case, and successfully prosecute drivers or motor carriers for deliberately or recklessly violating HOS restrictions)?

Response: See #8 above.

In addition to responding to your issues, I am concerned about other aspects of your proposal. These are:

a. The requirement that the driver identify the supporting document(s) with his/her name, the time, date and location and vehicle number, if those items do not already appear on the document. The amount of information on the specific document depends on the type of transaction, e.g. fuel receipt, toll receipt, etc., but in most cases the name of the driver would not appear. Generally, the vehicle number, time, date & location would appear on fuel receipts but not on the toll tickets. Nevertheless, these documents would be retained in our trip packets. But, I am concerned about what happens should a driver forget to show or sign his/her name on one of the many pieces of paper (documents) in his trip packet. Is that a violation? If so, is it a serious violation or just an oversight? How would it be treated by the FHWA Inspectors?

Frankly, under this scenario, isn't FHWA "nitpicking" paper issues instead of focusing on its primary efforts to reduce accidents (crashes). As with the RODS inspections, violations of this sort might be classified as "form and manner" issues. Frankly, I am concerned that FHWA is losing sight of its real objectives and this proposal would just be another "paper exercise" that do little or nothing in helping FHWA achieve its safety mission.

The proposal's self-monitoring systems requirements have been unrealistically established by FHWA. Under this proposal, self-monitoring systems must be capable of (1) verifying a driver's hours of service and duty status for each day and for each trip; (2) verifying beginning, intermediate, and ending times of each working day for each trip; and (3) verifying beginning, ending and intermediate mileage for each trip. I am concerned that the proposal's author does not have an adequate understanding of the Irregular Route Carrier segment of our trucking industry. I suggest you contact the Truckload Carrier's Association, Alexandria, VA and receive an education on how that segment conducts its business and complies with the HOS regulations.

Additionally, in addressing this issue prior to FHA's issuance of the Notice of Proposed Rulemaking on the Hours of Service makes this proposal premature. I think FHWA is placing the cart before the horse and FHWA needs to keep its priorities straight. Let's get the HOS issue out of the way first.

In summary, I know the American Trucking Association will respond to this proposal in much more detailed fashion but I felt it was necessary to also express my opinion on what appears to be a "unnecessary exercise" on part of FHWA. Among the issues to be addressed on "supporting documents" are:

1. Combining this proposal with the upcoming NPRM on HAS.
2. Truly evaluate the necessity for this proposal in view of the fact that supporting documents presently existing at a carrier's place of business would be sufficient for a FHA inspector to assess the safety posture of that carrier.
3. Establish Part 395.10 to identify the supporting documents interpretation as presently outlined in Regulatory Guidance for Federal Motor Carrier Safety Regulations.
4. Eliminate or modify the requirement to document beginning, intermediate, and ending times in all cases.

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I appreciate the opportunity to comment on this rulemaking and I am hopeful FHWA will help the industry continue improving it's safety record thru performance based requirements as opposed to implementing what I consider to be an unnecessary paper exercise, since supporting documents are currently available.

Sincerely,



Angel E. Arzaga
VP, Safety & Risk Management

AEA/mm/FHWA98-3706